

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CASE NO.: 2024-022769-CA-01
SECTION: CA02

KP INVESTMENTS MIAMI, LLC,
a Florida Limited Liability Company,
Plaintiff,

v.

MARIO MIRABAL,
Defendant.

DEFENDANT' S VERIFIED MOTION FOR DISQUALIFICATION OF
JUDGE LOURDES SIMON AND REQUEST TO VACATE SCHEDULED
HEARING

I. INTRODUCTION

Defendant, Mario Mirabal, pro se, pursuant to Fla. R. Gen. Prac. & Jud.
Admin. 2.330, respectfully moves to disqualify the Honorable Lourdes
Simon from further presiding over this case and to vacate the summary-

judgment hearing currently scheduled for November 6, 2025 at 2:30 PM.

This motion is made in good faith and supported by verified facts that would cause a reasonable person to fear that Defendant will not receive a fair and impartial hearing before Judge Simon.

II. FACTUAL BASIS FOR DISQUALIFICATION

On October 16, 2025, Defendant filed in this Court a Notice of Federal Referral and Pending DOJ Review, giving notice that the U.S. Attorney's Office for the Southern District of New York is conducting review and investigation of the same actors and transactions forming the basis of this case.

Three federal cases are presently pending before Judge Lewis J. Liman in the Southern District of New York:

- Mirabal v. Deutsche Bank Nat'l Trust Co., 1:25-cv-07418-LJL-OTW (§ 1983)
- Mirabal v. Deutsche Bank Nat'l Trust Co., 1:25-cv-07419-LJL (RICO)
- Mirabal v. Deutsche Bank Nat'l Trust Co., 1:25-cv-07423-LJL-OTW (Collateral / Protective Case)

The defendants in those federal actions include John Cunill, Amarilis Adorno, and Adorno & Cunill PL, who are also counsel of record for Plaintiff KP Investments Miami LLC in this case.

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The U.S. Marshals Service has been directed to serve these same individuals and entities pursuant to federal-court order under 28 U.S.C. § 1915(d); at least one unexecuted return (Amarilis Adorno) is already docketed, and further attempts are in progress.

Despite being on formal notice of these conflicts and federal proceedings, Judge Simon has continued to allow counsel who are federally named defendants to participate in this case and has scheduled a summary-judgment hearing for Nov 6 2025, creating the appearance that the Court is disregarding federal jurisdiction and constitutional safeguards.

Because the Court has been informed of overlapping DOJ review and yet continues to advance the case under participation of federally-named parties, a reasonable observer would fear bias or partiality, or that state-court proceedings are being used to influence or undermine ongoing federal matters.

III. LEGAL GROUNDS

Under Rule 2.330(d)(1), disqualification is required where “the party fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge.” The rule is interpreted according to an objective standard—whether the facts would create in a reasonable person a well-founded fear of not receiving a fair hearing. *Livingston v. State*, 441 So. 2d 1083 (Fla. 1983).

The appearance of impartiality is as significant as actual impartiality. *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So. 2d 1332 (Fla. 1990).

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Here, the Court's decision to proceed despite DOJ notice and the direct participation of federally-named defendants satisfies that objective standard.

IV. RELIEF REQUESTED

Defendant respectfully requests that this Court:

Grant this verified motion and recuse itself from further participation in this case;

Vacate the hearing currently scheduled for November 6, 2025, pending reassignment; and

Direct that this motion and supporting verification be filed in the record for appellate purposes.

V. VERIFICATION

I, Mario Mirabal, am the Defendant in the above-captioned case. I hereby verify that the factual statements contained in this motion are true and correct to the best of my knowledge and belief.

Executed this 20th day of October 2025 at Miami Beach, Florida.

/s/ Mario Mirabal

Mario Mirabal, Pro Se Defendant

563 W. 49th Street

Miami Beach, FL 33140

Email: solphax@gmail.com

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion has been served through the Florida Courts E-Filing Portal and by e-mail on October 20, 2025 upon:

John Cunill, Esq.

Respectfully submitted,

/s/ Mario Mirabal

Mario Mirabal (Pro Se Defendant)